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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,678

01/27/2004

Mark D. Tucker

SD-7463

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SANDIA CORPORATION

P O BOX 5800

MS-0161

ALBUQUERQUE, NM 87185-0161

EXAMINER

ANTHONY, JOSEPH DAVID

ART UNIT

PAPER NUMBER

1714

MAIL DATE

DELIVERY MODE

05/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/765,678

Applicant(s)

TUCKER ET AL.

Examiner

Joseph D. Anthony

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 3/2/07 as an amendment.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 and 7 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 29 is/are rejected.
- 7) ☒ Claim(s) 3, 5 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **FINAL REJECTION AFTER FILING OF RCE**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2 and 29 are rejected under 35 U.S.C. 102(b) as anticipated by Nakagawa et al U.S. Patent Number 3,901,819.

Nakagawa et al. teach a composition for activating an inorganic peroxide bleaching agent comprising (A) an acetic acid ester of a monosaccharide, a

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disaccharide, a sugar alcohol, an internal anhydride of a sugar alcohol, or erythritol, said ester having at least 2 ester groups on the adjacent carbon atoms, and (B) an acetic acid ester of a polyhydric alcohol having a melting point not higher than about 30.degree.C., the weight ratio of the components being within the range of from 1/9 to 9/1. These are O-acetyl type bleach activators. Nakagawa et al also teaches the conventional use of low water soluble tetracetyl ethylene diamine (TAED) which is a N-acetyl type bleach activator, see abstract, column 2, lines 1-65, Tables, and claims. Applicant's claims 1-2 and 29 are deemed to be clearly anticipated over Run No. 5 (control) as set forth in Table 1. Although Run No. 5 (control) is not according to Nakagawa et al.'s invention, it nevertheless clearly anticipates applicant's said claims. The composition of Run No. 5 (control) is made by admixing: 1) sodium perborate, 2) triacetin and 3) water. It is well known in the art that sodium perborate in an aqueous solution will produce hydrogen peroxide and sodium borate (i.e. borax). The produced sodium borate or borax is a known alkaline buffering base. As such, the composition taught by Run No. 5 (control) clearly anticipates applicant's claims 1-2 and 29.

4. Claim 4 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nakagawa et al U.S. Patent Number 3,901,819.

Nakagawa et al has been described above. Applicant's claims are deemed to be anticipated when sodium percarbonate is substituted for sodium perborate in Example 1, which includes Run No. 5 (control). Such as substitution is strongly and clearly

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motivated by Nakagawa et al's disclosure of column 2, lines 45-52 wherein sodium percarbonate is taught as the functional equivalent of sodium perborate. As see example 2 wherein sodium percarbonate is used. As such, to substitute sodium percarbonate for sodium perborate in Example 1 is deemed to be at once envisaged. In the alternative, this rejection is also being made by way of obviousness because there is not a direct teaching (i.e. by way of a specific example) to where sodium percarbonate is used in lieu of sodium perborate with only triacetin and water. It would have been obvious to one having ordinary skill in the art to use the direct disclosure of the reference as stated above as strong motivation to actually substitute sodium percarbonate for sodium perborate in Example 1 which includes Run No. 5 (control).

#### ***Allowable Subject Matter***

5. Claims 3, 5 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 6 and 7 are allowed.

#### ***Response to Arguments***

7. Applicant's arguments filed 03/02/07 with the amendment have been fully considered but are not persuasive to put the application in condition for allowance for the reasons set forth above. Additional examiner comments are set forth next. In light of

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applicant's amendments to the claims, the Examiner was forced to modify how the applied prior-art reference to Nakagawa et al. anticipates and/or renders obvious applicant's claims 1-2, 4 and 29. The above prior-art rejections clearly set forth the examiner's arguments. Applicant's arguments are thus deemed to be moot in light of the above new examiner arguments.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

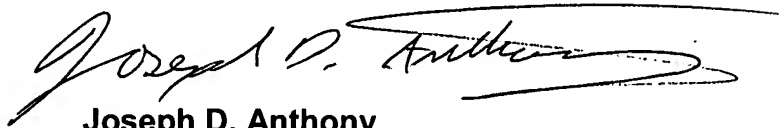
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Examiner Information***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number

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is (571) 272-1117. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (571) 272-1119. The centralized FAX machine number is (571) 273-8300. All other papers received by FAX will be treated as Official communications and cannot be immediately handled by the Examiner.

A handwritten signature in black ink, appearing to read "Joseph D. Anthony", with a long horizontal flourish extending to the right.

**Joseph D. Anthony**  
**Primary Patent Examiner**  
**Art Unit 1714**

5/3/07